

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO. <u>08-</u></b>
<b>v.</b>	<b>:</b>	<b>DATE FILED: <u>September 11, 2008</u></b>
<b>KEVIN WALTZER</b>	<b>:</b>	<b>VIOLATIONS:</b>
		<b>18 U.S.C. § 1341 (mail fraud – 1 count)</b>
	<b>:</b>	<b>18 U.S.C. § 1343 (wire fraud – 1 count)</b>
		<b>18 U.S.C. § 1956 (money laundering -</b>
	<b>:</b>	<b>1 count)</b>
		<b>18 U.S.C. § 2 (aiding and abetting)</b>
	<b>:</b>	<b>Notices of forfeiture</b>

**INFORMATION**

**COUNT ONE**

**THE UNITED STATES ATTORNEY CHARGES THAT:**

At all times material to this information:

1. A “class action” is a civil lawsuit brought by one or more individuals or entities on behalf of themselves and others who are similarly situated. Typical class actions involve thousands of individuals or entities who have comparable claims. Class action “certification” permits all claims to be heard in a single trial.
2. In Re: Nasdaq Market-Makers Antitrust Litigation (“Nasdaq class action”) was an antitrust class action lawsuit filed in the United States District Court for the Southern District of New York. The Nasdaq class action involved the following relevant facts:
  - a. The court certified the class action on behalf of individuals and entities who purchased or sold specific securities (“class securities”) traded on the Nasdaq Stock Exchange (“Nasdaq”) from May 1, 1989 through July 17, 1996. With approximately 3,200

companies, Nasdaq lists more companies and has more trading volume per day than any other stock exchange in the world.

b. The class action alleged that the defendant “market makers” improperly conspired to manipulate and increase the transaction costs for purchases and sales of class securities on Nasdaq. The “market makers” were large brokerage houses that, by conspiring to manipulate the transaction costs, were able to exercise control over the price that a buyer paid for a security and the price that a seller received for a security. According to the lawsuit, because the “market makers” conspired to increase these transaction costs during the period of the alleged conspiracy, Nasdaq buyers and sellers of class securities paid too much for each transaction.

c. On or about November 9, 1998, the court approved a settlement of the class action which required the class action defendants to pay a total of approximately \$1 billion to the class members. The terms of the settlement provided that each approved claimant would receive a share of the net settlement fund based on the number of class securities that the claimant purchased or sold during the relevant period.

3. In Re: Cendant Corporation Litigation (“Cendant class action”) was a securities class action lawsuit filed in the United States District Court for the District of New Jersey. The class action involved the following relevant facts:

a. The court certified the class action on behalf of shareholders of Cendant Corporation (“Cendant”) and CUC International (“CUC”) who purchased or otherwise acquired their publicly traded securities from May 31, 1995 through August 28, 1998.

b. The class action alleged that Cendant, which was formed from a

merger between CUC and HFS Incorporated, issued a series of materially false and misleading financial statements and other reports, and that these statements and reports artificially inflated the price of the publicly traded securities of CUC and Cendant. Therefore, according to the lawsuit, stockholders of CUC and Cendant lost substantial sums of money after the true financial picture of the companies was revealed and the stock price plummeted.

c. On or about August 14, 2000, the court approved a settlement of the class action which required the class action defendants to pay a total of approximately \$3 billion to the class members. Each approved claimant was entitled to a share of the net settlement fund based on the claimant's individual losses. At the time, this was the largest securities class action settlement in United States history.

4. In Re: BankAmerica Corporation Securities Litigation ("BankAmerica class action") was a securities class action lawsuit filed in the United States District Court for the Eastern District of Missouri, Eastern Division. The class action involved the following relevant facts:

a. The court certified the class action on behalf of shareholders of the former NationsBank Corporation ("NationsBank") and the former BankAmerica Corporation ("BankAmerica") who owned stock from August 1998 through October 1998 and on behalf of those shareholders who purchased Bank of America stock from October 1, 1998 through October 13, 1998.

b. The class action arose out of the merger of NationsBank and BankAmerica and the formation of the corporation now known as Bank of America. The class action alleged that the stock value in Bank of America was substantially diminished when it was

disclosed only after the merger that the new entity would suffer \$372 million in losses for a bad loan deal.

c. On or about September 30, 2002, the court approved a settlement of the class action which required the class action defendants to pay a total of approximately \$490 million to the class members. Each approved claimant was entitled to a share of the net settlement fund based on the number of shares of Nations Bank, BankAmerica, or Bank of America stock that the claimant held or purchased during the relevant period.

5. Following the settlement of the Nasdaq class action, a joint venture of certified public accountants (“the Joint Venture”) acted as the claims administrator. The Joint Venture involved two accounting firms known to the grand jury and identified here as Accounting Firm #1 and Accounting Firm #2. Following the settlement of the Cendant and BankAmerica class actions, Accounting Firm #1 acted as the claims administrator. The offices of Accounting Firm #1 were in Philadelphia, Pennsylvania, and Mt. Laurel, New Jersey. Christian J. Penta, who is charged elsewhere, was a senior accountant with Accounting Firm #1 assigned to participate in the administration of each of the three class action settlements. In this position, Penta was responsible for various aspects of the claims process, including reviewing claim documents to determine if a claimant was entitled to recovery and addressing any issues that arose with claimants who had submitted high value claims.

6. As the claims administrators in each of these class actions, the Joint Venture (in Nasdaq) and Accounting Firm #1 (in BankAmerica and Cendant) were responsible for distributing the settlement funds to the valid claimants upon approval by the courts. As part of this responsibility, the claims administrator was required to determine whether and to what

extent each claimant was entitled to a recovery and to distribute the settlement funds accordingly.

7. In order to share in the settlement fund for each of the above class actions, each class member was required to submit a signed proof of claim form with supporting documentation to the claims administrator by a date specified by the court. In the Nasdaq class action, under certain circumstances, the class member could file claims electronically and provide supporting documentation upon request. In each of these class actions, the court granted extensions for filing late claims, and at times, required additional documentation to justify the late filing. The information in the proof of claim forms and supporting documentation that each class member was required to provide was necessary to establish the legitimacy of the claim and the share of the net settlement fund to which the class member was entitled.

#### **THE SCHEME**

8. From in or about mid 2001 through in or about mid 2007, defendant

#### **KEVIN WALTZER**

and others known and unknown to the grand jury devised and intended to devise a scheme to (a) defraud the Joint Venture, Accounting Firm #1, and others; (b) defraud Accounting Firm #1 of the intangible right to the honest services of Christian J. Penta, charged elsewhere; and (c) obtain money and property by means of false and fraudulent pretenses, representations, and promises.

## **MANNER AND MEANS**

It was part of the scheme that:

9. Defendant KEVIN WALTZER and his co-schemers, including Christian J. Penta, Deborah K. Rice, a/k/a “Deborah K. Hausman,” James Hall, IV, Paul Negroni, and Stephen Porto, all charged elsewhere, submitted and caused to be submitted to the Joint Venture and Accounting Firm #1 numerous false and fraudulent claims in each of the three class action lawsuits identified above. These claims were false and fraudulent because they alleged that the claimant owned or traded in the appropriate security during the relevant period when, in fact, the claimant did not own or trade in any such security and was not entitled to any recovery. Through the submission of these false claims, defendant WALTZER and his co-schemers obtained over \$40 million in funds to which they were not entitled.

10. To successfully perpetrate this scheme, defendant WALTZER and his co-schemers took elaborate steps to pursue these fraudulent claims and produce the necessary records to support them. In particular, they created fake corporations, using false names for executive personnel, with addresses in the United States and in foreign countries. They opened bank accounts and established virtual offices for the fake corporations in the United States and in foreign countries, with mailing addresses and telephone numbers, and used professional office services to retrieve the mail and take telephone messages. They then created fake brokerage account statements and other financial documents that showed the fake company’s ownership in the securities necessary to share in the class action settlement funds. Using these false records and documents, defendant WALTZER and his co-schemers submitted fraudulent claims in the three class action lawsuits.

11. Throughout the course of the scheme, defendant KEVIN WALTZER worked with Christian J. Penta, a corrupt insider at Accounting Firm #1, to maximize the profitability of the scheme and ensure its success.

12. Working with defendant KEVIN WALTZER, Christian J. Penta both approved fraudulent claims himself and took whatever steps were necessary to make sure that other employees at Accounting Firm #1 approved the claims. Penta told defendant WALTZER when to submit his fake claims based on the timing and amount of distributions. Penta also gave defendant WALTZER the necessary information for him to prepare acceptable documentation to support the fake claims. Penta acted as defendant WALTZER's "eyes and ears" inside Accounting Firm #1 to make sure that the fraud scheme was successful and that it was not uncovered by Accounting Firm #1, the Joint Venture, or law enforcement authorities.

13. Defendant KEVIN WALTZER paid Christian J. Penta approximately ten percent of the fraud proceeds, or more than \$4 million. Defendant WALTZER also purchased for Penta and his spouse a Cadillac Escalade and paid \$350,000 to the Internal Revenue Service on Penta's behalf to help cover Penta's tax liability for some of the fraud proceeds he received from defendant WALTZER.

14. Early in the scheme, in or about late 2001 and early 2002, when defendant KEVIN WALTZER began working with Christian J. Penta, defendant WALTZER also worked with two co-schemers, Paul Negroni and James Hall, IV, who filed false claims in their own names in the Nasdaq class action and shared the proceeds with defendant WALTZER and Penta.

15. Thus, on or about April 10, 2002, defendant KEVIN WALTZER and Paul Negroni sent directly to Christian J. Penta at Accounting Firm #1 a fraudulent proof of claim

form and supporting documents for the Nasdaq class action. According to the claim and the supporting documents, including fake brokerage statements, Negroni falsely represented that he had traded more than 17 million shares of Nasdaq securities during the relevant period. Based on this fraudulent claim, defendant WALTZER and Negroni obtained \$449,009.23 in settlement proceeds which defendant WALTZER divided among defendant WALTZER, Negroni, and Penta.

16. Similarly, on or about May 20, 2002, defendant KEVIN WALTZER and James Hall, IV sent Christian J. Penta a fraudulent proof of claim form and supporting documents for the Nasdaq litigation. According to the claim form and the supporting documents, including fake brokerage statements, Hall falsely represented that he had traded more than 19 million shares of Nasdaq securities during the relevant period. Based on this fraudulent claim, defendant WALTZER and Hall received \$507,910.99 in settlement proceeds which defendant WALTZER divided among defendant WALTZER, Hall, and Penta.

17. Defendant KEVIN WALTZER also worked with Paul Negroni and James Hall, IV, to pursue other fraudulent claims in the class actions. For example, in the BankAmerica class action, in or about early 2003, defendant WALTZER and Negroni created a fake company, the Denver Corporation (“Denver”), and submitted a fraudulent claim in the name of the company. They incorporated Denver in New York, opened a bank account for Denver with the Bank of New York, and established a virtual office for the company in Denver, Colorado. After filing a fraudulent claim, which was backdated to February 26, 2002, defendant WALTZER and Negroni obtained \$228,795.82 in settlement proceeds which defendant WALTZER divided among defendant WALTZER, Negroni, and Penta.



18. In or about early 2004, defendant KEVIN WALTZER began working in this fraud scheme with a corrupt attorney, Deborah K. Rice. Because Christian J. Penta told defendant WALTZER that the involvement of an attorney would create the appearance of legitimacy for the claims and thus increase the likelihood that the claims would be paid, defendant WALTZER had Rice purport to represent a number of the fake companies that were submitting the fraudulent claims. In the course of “representing” the fake companies, Rice wrote cover letters to Accounting Firm #1 with false proof of claim forms, collected the proceeds of the scheme and deposited them in her bank accounts, and then distributed the proceeds to various accounts that defendant WALTZER controlled. Defendant WALTZER also had Rice deposit in her attorney trust account settlement checks for fraudulent claims where she did not represent the claimant and then distribute the funds to defendant WALTZER through various accounts that he controlled.

19. For example, on or about February 6, 2004, defendant KEVIN WALTZER and Deborah Rice submitted a cover letter and proof of claim form to Accounting Firm #1 in the Cendant class action on behalf of Sydney Wealth Management, Ltd. (“Sydney”), a fake Australian corporation that defendant WALTZER had created for the sole purpose of pursuing a fraudulent claim. This claim falsely represented that Sydney owned shares of CUC or Cendant securities valued at over \$36,000,000 during the relevant period. As a result of this fraudulent claim, on or about March 24, 2004, Accounting Firm #1 sent Rice a check for \$8,077,523.26, representing Sydney’s share of the settlement proceeds. Rice then deposited the fraud proceeds in her law firm trust account from which she wired, for the benefit of Waltzer, a portion of the proceeds to a bank account in the name of Sydney and a portion of the proceeds to Waltzer’s

shell company, Galt Ventures.

20. Similarly, on or about February 20, 2004, defendant KEVIN WALTZER and Deborah K. Rice submitted a fraudulent claim to Accounting Firm #1 in the Cendant class action on behalf of Shanghai Yaohua Co., Ltd. (“Shanghai”), a fake Chinese company that defendant WALTZER had created to further the fraud scheme. This claim falsely represented that Shanghai owned shares of CUC or Cendant securities valued at over \$28 million during the relevant period. As a result of this fraudulent claim, on or about March 24, 2004, Accounting Firm #1 sent Rice a check for \$5,111,947.60, representing Shanghai’s share of the settlement proceeds. Rice then deposited the fraud proceeds in her law firm trust account from which she wired, for the benefit of Waltzer, a portion of the proceeds to a bank account in the name of Shanghai and a portion of the proceeds to Waltzer’s shell company, Galt Ventures.

21. For the claims she filed on behalf of Sydney and Shanghai and the minimal work performed on those matters as described above, defendant KEVIN WALTZER paid Deborah K. Rice and her law firm at least \$100,000.

22. In or about early 2004, defendant KEVIN WALTZER also worked with Stephen Porto to submit fraudulent claims. For example, defendant WALTZER and Porto pursued a claim in the BankAmerica class action on behalf of a fake company called KimCorp PTE Ltd. (“KimCorp”), purportedly located in Singapore. In or about February 2004, defendant WALTZER paid for Porto to travel to Singapore as the vice president of this fake company to obtain and mail documents and other information that would help make the fake company and its records appear legitimate. On or about February 10, 2004, defendant WALTZER and Porto filed a fraudulent claim on behalf of KimCorp in the BankAmerica class action stating that KimCorp

owned 1,911,500 shares of NationsBank stock during the relevant period.

23. On or about July 16, 2004, based on the fraudulent claim submitted by defendant KEVIN WALTZER and Stephen Porto, Accounting Firm #1 issued a check made payable to “KimCorp PTE Ltd. Stephen Porto” for \$940,523.02, representing KimCorp’s share of the settlement proceeds. Defendant WALTZER and Porto then opened a bank account for KimCorp at the Bank of America in Boca Raton, FL and deposited the settlement check. At defendant WALTZER’s direction, Porto then wired \$835,523.02 to Waltzer’s bank account for Galt Ventures.

24. In summary, with the help of his co-schemers, in the Nasdaq class action, defendant KEVIN WALTZER submitted and caused to be submitted false and fraudulent claims in the names of the following: James Hall, IV, Paul Negroni, Champs Elysees Mutual, Ltd., Fidcus Investments, Inc., Bay Area Financial Corp., Dag Trading Corp., Riverside Equity Corp., and Zurich Partners, Ltd.. As a result of these false claims, defendant WALTZER and his co-schemers received approximately \$7,211,278 in fraud proceeds.

25. In the BankAmerica class action, defendant KEVIN WALTZER submitted and caused to be submitted false and fraudulent claims in the names of the following companies: Asia Reserve Limited, Companhia Interamerican Group, Denver Corp., Keegan Bros., Inc., KimCorp PTE, Ltd., and Millenium Partners, Ltd.. As a result of these false claims, defendant WALTZER and his co-schemers received approximately \$5,878,676 in fraud proceeds.

26. In the Cendant class action, defendant KEVIN WALTZER submitted and caused to be submitted false and fraudulent claims in the names of the following companies: Far East Trading, LLC, Glades Investments, Inc., Brown Financial Corp., Millenium Partners, Ltd.,

Shanghai Yaohua, Co., Ltd., Sydney Wealth Management, Ltd., Lewi Finance, Ltd., Chachma Investment House, Ltd., Wyeth Resources, and Queensland Insurance Brokers, Ltd. As a result of these false claims, defendant WALTZER and his co-schemers received approximately \$28,690,206 in fraud proceeds.

27. In total, as a result of this elaborate fraud scheme, Kevin Waltzer and his co-schemers received more than \$40 million in fraud proceeds and attempted to generate millions of dollars in additional fraud proceeds from claims that were pending with Accounting Firm #1 when the fraud was discovered in 2007.

#### **THE MAILING**

28. On or about September 17, 2003, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

#### **KEVIN WALTZER,**

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by commercial interstate carrier according to the directions thereon the following item: Check number 9000003408 drawn on the Citibank account of Nasdaq Market-Makers Antitrust Litigation for \$507,910.99 for a fraudulent claim filed on behalf of James Hall, IV, in the Nasdaq class action, sent from Philadelphia, PA to Odenton, MD.

All in violation of Title 18, United States Code, Sections 1341, 1346, 1349, and 2.

**COUNT TWO**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 27 of Count One are incorporated here.
2. On or about February 6, 2004, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant,

**KEVIN WALTZER,**

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, caused to be transmitted by means of wire communication in interstate commerce the following signals and sounds: Letter attaching fraudulent proof of claim form on behalf of Sydney Wealth Management in Cendant class action, sent via facsimile from Deborah Rice in Boca Raton, FL to Accounting Firm #1 in Philadelphia, PA.

All in violation of Title 18, United States Code, Sections 1343, 1346, 1349, and 2.

**COUNT THREE**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 7 and 9 through 27 of Count One are incorporated here.

2. On or about April 5, 2004, in Newtown, in the Eastern District of Pennsylvania, and elsewhere, defendant

**KEVIN WALTZER**

knowingly conducted, and aided and abetted the conducting of, the following financial transaction affecting interstate commerce: the wiring of \$650,000 in fraud proceeds sent from defendant WALTZER's Galt Ventures account at Wachovia Bank in Newtown, PA to Christian J. Penta's account at PNC Bank in New Jersey.

3. When conducting, and aiding and abetting the conducting of, the financial transaction described in paragraph 2 above, defendant KEVIN WALTZER knew that the property involved in that financial transaction represented the proceeds of some form of unlawful activity.

4. The financial transaction described in paragraph 2 above involved the proceeds of a specified unlawful activity, that is, mail fraud, in violation of Title 18, United States Code, Section 1341, and wire fraud, in violation of Title 18, United States Code, Section 1343, and defendant KEVIN WALTZER acted with the knowledge that the transaction was designed, in whole and in part, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity, and with intent to promote the

carrying on of specified unlawful activity.

In violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i), (B)(i), and

2.

**NOTICE OF FORFEITURE NO. 1 (mail and wire fraud)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Sections 1341 and 1343 set forth in this information, defendant

**KEVIN WALTZER**

shall forfeit to the United States of America any and all property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, including but not limited to \$40,675,241.55.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(c), Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p) to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(c).



**NOTICE OF FORFEITURE NO. 2 (money laundering)**

**THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Section 1956(a)(1)(A)(i), (B)(i) as set forth in this information, defendant

**KEVIN WALTZER**

shall forfeit to the United States of America any and all property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, including but not limited to \$650,000.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(c), Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of

the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(c).

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**LAURIE MAGID**  
**Acting United States Attorney**